

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

THOMPSON PEARCY BURNSIDE,

Plaintiff,

v.

CIVIL ACTION NO. 2:17-cv-01329

NANCY A. BERRYHILL,
Acting Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

Before the Court is Plaintiff Thompson Percy Burnside's Complaint seeking review of the decision of the Acting Commissioner of Social Security, Nancy A. Berryhill ("Commissioner"). (ECF No. 2.) On October 20, 2017, the referral in this action was transferred to United States Magistrate Judge Omar J. Aboulhosn for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF No. 14.) Magistrate Judge Aboulhosn filed his PF&R on October 30, 2017, recommending that this Court reverse the final decision of the Commissioner, remand this matter pursuant to sentence four of 42 U.S.C. § 405(g), and dismiss this action from the Court's docket. (ECF No. 15.)

The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and the Petitioner's right to appeal this Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir.

1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). Objections to the PF&R were due on November 16, 2017. To date, no objections have been filed.

Accordingly, the Court **GRANTS** Plaintiff’s request for judgment on the pleadings, (ECF No. 12), to the extent it seeks remand of the Commissioner’s decision, **DENIES** Defendant’s request to affirm the decision of the Commissioner, (ECF No. 13), **REVERSES** the final decision of the Commissioner, **REMANDS** this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings consistent with the PF&R, (ECF No. 15), **DISMISSES** the Complaint, (ECF No. 2), and **DIRECTS** the Clerk to remove this case from the Court’s docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: November 27, 2017



THOMAS E. JOHNSTON
UNITED STATES DISTRICT JUDGE